

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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KADIAN MCBEAN, et al., individually and on behalf of a  
class of all others similarly situated,

Plaintiffs,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.

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DAVID CENCE et al., individually and on behalf of a  
class of all others similarly situated,

Plaintiffs,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.

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**STIPULATION AND  
ORDER OF  
SETTLEMENT OF CLASS  
ACTION ADMINISTRATION  
FEES**

02 CV 5426 (GEL)

03 CV 4114 (GEL)

**WHEREAS**, by Order and Stipulation of Class Action Settlement filed with the Court on July 12, 2005, the class members as certified by the Court's Order dated April 27, 2005, resolved the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

**WHEREAS**, by Order and Stipulation of Class Action Settlement filed with the Court on July 12, 2005, Class Counsel for the plaintiffs assumed the responsibilities of administration of the class action, including legal work and paralegal work; and

**WHEREAS**, by Memorandum and Opinion of the Court dated February 7, 2006, these actions were settled pursuant to the Court's approval of the class settlement in Kadian McBean et al. v. The City of New York et al.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

1. It is agreed amongst the City of New York and Cardinale, Hueston & Marinelli and Robert Isseks ("Plaintiffs' Class Counsel") that the Invoice dated August 9, 2007, to the City of New York for administration fees and expenses in above-referenced class actions is to be settled as specified in paragraphs "2," below.

2. The City of New York hereby agrees to pay Plaintiffs' Class Counsel, the sum of Forty Thousand Seven Hundred Nineteen Dollars Sixty-Nine Cents (\$40,719.69) in full satisfaction of cost and expenses of the administration of the settlement in the above class actions between November 29, 2006 and August 7, 2007. In consideration for the payment of this sum, Plaintiffs' Class Counsel agrees to dismissal of all the claims it has or may have against defendants for the cost and expenses of the administration of the class actions, including attorneys fees and paralegal fees, costs and expenses, and to release defendants City of New York, all named defendants and any present or former employees or agents of the City of New York or any agency thereof, from any and all liability, claims, or rights of action arising from the cost and expense of the administration of the settlement of the above class actions, including claims for legal fees and paralegal fees, costs and expenses.

3. Plaintiffs' Class Counsel shall execute and deliver to the defendants' attorney all documents necessary to effect this settlement, including, without limitation, General Releases based on the terms of paragraphs "2."

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Department of Correction.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceedings shall be deemed to exist, or to bind the parties hereto, or to vary the terms

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